

808 KAR 9:050. Licensee change of control.

RELATES TO: KRS 286.9-010, 286.9-020, 286.9-030, 286.9-040, 286.9-050, 286.9-060, 286.9-070, 286.9-071, 286.9-073, 286.9-080, 286.9-104

STATUTORY AUTHORITY: KRS 286.9-050, 286.9-060, 286.9-070, 286.9-090(1), 286.9-104

NECESSITY, FUNCTION, AND CONFORMITY: KRS 286.9-090(1) authorizes the commissioner to adopt reasonable administrative regulations for the enforcement of KRS Chapter 286.9. KRS 286.9-050 and 286.9-060 authorize the commissioner to prescribe the form and materials required to apply for a license under KRS Chapter 286.9. KRS 286.9-070 requires licensees to file a written request for a change of control and to pay the cost incurred by the commissioner in investigating the change of control request. This administrative regulation establishes the required filing procedures for change of control by check cashing licensees.

Section 1. Pursuant to the moratorium on the deferred deposit service business license in KRS 286.9-071, a license issued prior to July 2, 2009, shall be a deferred deposit service business license.

Section 2. Interpretation of KRS 286.9-030(3). A person shall be deemed principally engaged in the business of cashing checks and not principally engaged in the retail sale of goods or services at any particular location if the location's gross annual check cashing receipts exceed more than fifty (50) percent of the location's annual revenue.

Section 3. Change of Control. A licensee requesting a change of control pursuant to KRS 286.9-070(5) shall submit:

(1) A completed Change of Control form, available online at <http://mortgage.nationwidelicensingsystem.org>;

(2) A nonrefundable investigation fee of \$500, if the person obtaining control of the licensee is not a licensee;

(3) If the person obtaining control of the licensee has a license, registration, or claim of exemption related to the financial services industry in any other state, a Form COMB-1, State License Confirmation Form for Check Cashing License or Deferred Deposit Service Business License for the person obtaining control of the licensee;

(4) An audited financial statement for the person obtaining control of the licensee prepared by a certified public accountant in accordance with generally accepted accounting principles as of the previous year end that includes:

(a) A balance sheet;

(b) Income statement;

(c) Statement of cash flows; and

(d) All notes.

(5) If the person obtaining control of the licensee is a startup company or new entity, an initial statement of condition and a proforma income statement shall be submitted instead of the income statement and statement of cash flows;

(6) Evidence that the person obtaining control of the licensee has complied or will comply with all workers' compensation and unemployment compensation laws of Kentucky; and

(7) One (1) of the following, which shall be deposited with and made payable to the commissioner:

(a) An irrevocable letter of credit in an amount required by KRS 286.9-040(1)(a);

(b) An Electronic Surety Bond available online at

<http://mortgage.nationwidelicensingsystem.org>. The name of the principal insured on the bond shall match exactly the full legal name of the person obtaining control of the licensee;

(c) Evidence that the person obtaining control of the licensee has established an account in a federally insured financial institution in Kentucky and has deposited money of the United States in an amount required by KRS 286.9-040(1)(c), with an escrow agreement submitted on Form COMB-3, Escrow Agreement for Check Cashing License or Deferred Deposit Service Business License; or

(d) A savings certificate of a federally insured financial institution in Kentucky established by the person obtaining control of the licensee that is not available for withdrawal except by direct order of the commissioner in an amount required by KRS 286.9-040(1)(d), with an escrow agreement submitted on Form COMB-3, Escrow Agreement for Check Cashing License or Deferred Deposit Service Business License.

Section 4. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) Form COMB-1, "State License Confirmation Form for Check Cashing License or Deferred Deposit Services Business License", December, 2019; and

(b) Form COMB-3, "Escrow Agreement for Check Cashing License or Deferred Deposit Services Business License", December, 2019;

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Financial Institutions, 500 Mero St 2SW19, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. This material may also be obtained from the department's Web site at <http://www.kfi.ky.gov>. (42 Ky.R. 2852; 43 Ky.R. 25; eff. 8-5-2016; 45 Ky.R. 2203; eff. 5-3-2019; 46 Ky.R. 703; eff. 11-1-2019; TAm eff. 12-3-2019.)